IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

Abid Hussain & Anr. **Versus** Narayan Mal

S.B. CIVIL REVISION PETITION NO.161/2006

DATE OF ORDER : 04/10/2006

Hon'ble Shri Justice Ajay Rastogi

Shri B.L. Mandhana, for petitioner

BY THE COURT:

It's a defendant revision petition filed against the order dated 19th August, 2006 whereby the application filed by the plaintiff-respondent u/s.5 of the Limitation Act has been allowed by the learned First Appellate Court.

The order passed by the learned trial court striking out the defence was set aside vide order dated 1st June, 2002 which was challenged in appeal by the plaintiff-respondent, which was filed on 15th July, 2002. Limitation for filing appeal is 30 days. The plaintiff along with appeal filed application u/s.5 of the Limitation Act seeking condonation of delay.

Learned First Appellate Court after hearing the parties on application filed u/s.5 of the Limitation Act was satisfied with the reasons mentioned in the application and consequently, condoned the delay in filing of the appeal by the order impugned.

Counsel for petitioner submits that the respondent only made a request for condonation of delay of 4 days in filing of the appeal and the certified copy of which

he took benefit there were certain interpolation which dis-entitled him from seeking indulgence in exercise of discretion while condoning the delay and the finding which has been recorded by the learned First Appellate Court while condoning the delay under order impugned requires interference.

I have gone through the order impugned and find that the learned First Appellate Court has given sufficient reason in exercise of its discretion. I do not find any illegality or perversity in the discretion exercised by the learned First Appellate Court while accepting application filed u/s.5 of the Limitation Act.

Consequently, the revision petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRBOHRA,JR.P.A.